



[BILLING CODE 3190-W2-P]

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Dispute No. WTO/DS430]

WTO Dispute Settlement Proceeding Regarding India – Measures Concerning the Importation of Certain Agricultural Products

AGENCY: Office of the United States Trade Representative.

ACTION: Notice; request for comments.

SUMMARY: The Office of the United States Trade Representative (“USTR”) is providing notice that on May 11, 2012, the United States requested establishment of a dispute settlement panel under the *Marrakesh Agreement Establishing the World Trade Organization* (“WTO Agreement”) with the Government of India (“India”) concerning measures imposed by India on the importation of various agricultural products from the United States, purportedly because of concerns related to avian influenza. That request may be found at www.wto.org contained in a document designated as WT/DS430/2. USTR invites written comments from the public concerning the issues raised in this dispute.

DATES: Although USTR will accept any comments received during the course of the dispute settlement proceedings, comments should be submitted on or before **July 5, 2012** to be assured of timely consideration by USTR.

ADDRESSES: Public comments should be submitted electronically to www.regulations.gov, docket number USTR-2012-0004. If you are unable to provide submissions to www.regulations.gov, please contact Sandy McKinzy at (202) 395-9483 to arrange for an alternative method of transmission. If (as explained below) the comment contains confidential

information, then the comment should be submitted by fax only to Sandy McKinzy at (202) 395-3640.

FOR FURTHER INFORMATION CONTACT: Mayur R. Patel, Assistant General Counsel, or Micah S. Myers, Assistant General Counsel, Office of the United States Trade Representative, 600 17th Street, N.W., Washington, D.C. 20508, (202) 395-3150.

SUPPLEMENTARY INFORMATION: Section 127(b)(1) of the Uruguay Round Agreements Act (“URAA”) (19 U.S.C. 3537(b)(1)) requires that notice and opportunity for comment be provided after the United States submits or receives a request for establishment of a WTO dispute settlement panel. Consistent with this obligation, USTR is providing notice that it has requested a panel pursuant to the WTO Understanding on Rules and Procedures Governing the Settlement of Disputes (“DSU”). Once it is established, the panel will hold its meetings in Geneva, Switzerland, and would be expected to issue a report on its findings and recommendations within nine months of its establishment.

Major Issues Raised by the United States

India’s avian influenza measures prohibit the importation of various agricultural products into India from those countries reporting Notifiable Avian Influenza (both Highly Pathogenic Avian Influenza and Low Pathogenic Avian Influenza). These measures are set forth through the following legal instruments: the Indian Livestock Importation Act, 1898 (9 of 1898) (“Livestock Act”), orders issued by the India’s Department of Animal Husbandry, Dairying, and Fisheries pursuant to the Livestock Act, most recently S.O 1663(E), which was published in the Gazette of

India on July 19, 2011, and amendments, related measures, or other implementing measures.

The United States considers these measures to be inconsistent with Articles 2.2, 2.3, 3.1, 5.1, 5.2, 5.5, 5.6, 6.1, 6.2, 7, and Annex B, paragraphs 2 and 5 of the Agreement on the Application of Sanitary and Phytosanitary Measures and Article XI of the General Agreement on Tariffs and Trade 1994.

On March 6, 2012, the United States requested consultations with India. That request may be found at www.wto.org contained in a document designated as WT/DS430/1. The United States and India held consultations on April 16 and 17, 2012, but the consultations did not resolve the matter.

Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues raised in this dispute. Persons may submit public comments electronically to www.regulations.gov, docket number USTR-2012-0004. If you are unable to provide submissions by www.regulations.gov, please contact Sandy McKinzy at (202) 395-9483 to arrange for an alternative method of transmission.

To submit comments via www.regulations.gov, enter docket number USTR-2012-0004 on the home page and click “search.” The site will provide a search-results page listing all documents associated with this docket. Find a reference to this notice by selecting “Notice” under “Document Type” on the left side of the search-results page, and click on the link entitled “Submit a Comment.” (For further information on using the www.regulations.gov website,

please consult the resources provided on the website by clicking on “How to Use This Site” on the left side of the home page.)

The www.regulations.gov site provides the option of providing comments by filling in a “Type Comments” field, or by attaching a document using an “upload file” field. It is expected that most comments will be provided in an attached document. If a document is attached, it is sufficient to type “See attached” in the “Type Comments” field.

A person requesting that information contained in a comment submitted by that person be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the submitter. Confidential business information must be clearly designated as such and the submission must be marked “BUSINESS CONFIDENTIAL” at the top and bottom of the cover page and each succeeding page. Any comment containing business confidential information must be submitted by fax to Sandy McKinzy at (202) 395-3640. A non-confidential summary of the confidential information must be submitted to www.regulations.gov. The non-confidential summary will be placed in the docket and open to public inspection.

Information or advice contained in a comment submitted, other than business confidential information, may be determined by USTR to be confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. § 2155(g)(2)). If the submitter believes that information or advice may qualify as such, the submitter –

- (1) Must clearly so designate the information or advice;

(2) Must clearly mark the material as “SUBMITTED IN CONFIDENCE”

at the top and bottom of the cover page and each succeeding page; and

(3) Must provide a non-confidential summary of the information or advice.

Any comment containing confidential information must be submitted by fax to Sandy McKinzy at (202) 395-3640. A non-confidential summary of the confidential information must be submitted to www.regulations.gov. The non-confidential summary will be placed in the docket and open to public inspection.

Pursuant to section 127(e) of the URAA (19 U.S.C. 3537(e)), USTR will maintain a docket on this dispute settlement proceeding accessible to the public. The public file will include non-confidential comments received by USTR from the public with respect to the dispute. If a dispute settlement panel is convened or in the event of an appeal from such a panel, the U.S. submissions, any non-confidential submissions, or non-confidential summaries of submissions, received from other participants in the dispute, will be made available to the public on USTR’s web site at www.ustr.gov, and the report of the panel, and, if applicable, the report of the Appellate Body, will be available on the website of the World Trade Organization, www.wto.org. Comments open to public inspection may be viewed on the www.regulations.gov website.

Bradford Ward,

Assistant United States Trade Representative

for Monitoring and Enforcement

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